

CUSTOMER NO.: 38107

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)	Examiner: Nancy BITAR
Gerhard TIVIG, et al.)	
)	Art Unit: 2624
Serial No.: 10/595,431)	
)	Confirmation: 9506
Filed: January 3, 2007)	
)	
For: METHOD OF)	
AUTOMATICALLY)	
DISPLAYING MEDICAL)	
MEASUREMENT DATA)	
)	
Date of Last Office Action:)	
October 28, 2009)	
)	
Attorney Docket No.:)	Cleveland, OH 44114
PHDE030358US / PKRZ 2 01325)	December 22, 2009

CONDITIONAL
PETITION FOR WITHDRAWAL
OF PREMATURE FINALITY

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the accompanying amendment, the applicant is requesting that the Examiner voluntarily withdraw the Finality of the Office Action of October 28, 2009 as being premature. If the Examiner fails to withdraw the Finality of the Office Action of October 28, 2009, then the applicant hereby petitions for the withdrawal of the Finality of the Office Action of October 28, 2009.

The Finality of the Office Action is premature, because the Examiner issued a new ground of rejection which was not necessitated by the applicant's amendment of June 29, 2009.

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this **CONDITIONAL PETITION FOR WITHDRAWAL OF PREMATURE FINALITY** and accompanying documents in connection with U.S. Serial No. 10/595,431 are being filed on the date indicated below by electronic transmission with the United States Patent and Trademark Office via the electronic filing system (EFS-Web).

Dec 23 2009
Date

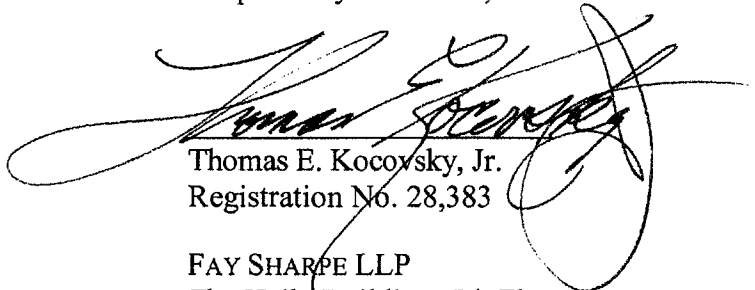
Patricia A Heim
Patricia A. Heim

Specifically, Amendment D of June 29, 2009 made no substantive amendment to independent claim 15 or claims 14, 16-19, 25, or 26 dependent therefrom. The only "amendment" to claim 15 was the correction of a typographical error, particularly the deletion of a stray punctuation mark in a location which was grammatically incorrect and whose removal did not alter the meaning of claim 15. Nonetheless, the Examiner issued a new ground of rejection against claim 15 and claims 14, 16-19, 25, and 26 dependent therefrom.

Because claim 15 and claims 14, 16-19, 25, and 26 were not substantively amended, the Examiner's citation of a new reference and issuance of a new ground of rejection was not necessitated by the "amendment" of claim 15 in the Amendment D of June 29, 2009. Accordingly, it is submitted that the finality of the Office Action of October 28, 2009 is premature and should be withdrawn.

The applicant hereby requests that the finality of the Office Action of October 28, 2009 be withdrawn.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Thomas E. Kocovsky, Jr.", is written over the printed name and registration number.

Thomas E. Kocovsky, Jr.
Registration No. 28,383

FAY SHARPE LLP
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, OH 44115-1843
Telephone: 216.363.9000 (main)
Telephone: 216.363.9122 (direct)
Facsimile: 216.363.9001
E-Mail: tkocovsky@faysharpe.com